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October 11, 2021

VIA ECF

The Honorable Mary Kay Vyskocil
United States District Court for the Southern District of New York
500 Pearl Street, Room 2230
New York, NY 10007
(212) 805-0200

**Re: *Shabtai Scott Shatsky, et al. v. The Palestine Liberation Organization, et al.*,
No: 1:18-cv-12355-MKV-DCF**

Dear Judge Vyskocil:

Our law firm represents Plaintiffs in this action. Pursuant to Rule 9(B) of Your Honor's Individual Rules of Practice in Civil Cases and Section 6 of the Southern District of New York's Electronic Case Filing Rules and Instructions, I submit this Letter Motion to Seal ("Motion"). Pursuant to Paragraph 17 of Your Honor's Superseding Protective Order entered in this case (ECF 64, "Protective Order"), Plaintiffs filed the following thirty-four (34) exhibits under seal as attached to my declaration (Declaration of Abbe David Lowell) in support of Plaintiffs' Opposition to the Palestine Liberation Organization's ("PLO") and the Palestinian Authority's ("PA," collectively with PLO, "Defendants") Motion for Summary Judgment (ECF 136): **Exhibits 4-7, 11-14, 24, 39, 51-67, 71, and 82-87.**

Exhibits Designated Confidential by Defendants:

The following exhibits have or contain information previously designated as Confidential by Defendants: **Exhibits 4-7, 11-14, 24, 39, 71, and 82-87.** Plaintiffs filed these exhibits under seal as required by Paragraphs 3 and 17 of the Protective Order, and as such, take no position as to the confidentiality designation of the underlying exhibits. Absent an application by Defendants to seal these exhibits and Your Honor's order authorizing their sealing, Plaintiffs will refile such documents in unsealed form in accordance with Paragraph 17 of the Protective Order.

Exhibits Designated Confidential by Plaintiffs:

Plaintiffs request that **Exhibit 51** be sealed in full. This exhibit is the Psychological Evaluation Report of Leor Thaler (a Plaintiff in this case), which Plaintiffs designate as Confidential. It consists of medical records containing information related to a clinical interview and formal psychiatric evaluation of Mr. Thaler.



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Under the standard for sealing documents outlined in *Lugosch v. Pyramid Co. of Onondaga*, the court must balance the “weight of the presumption of access [with] competing considerations against it,” which include “the privacy interests of those resisting disclosure.” See *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006). Here, there is undoubtedly a strong countervailing interest that warrants sealing of the report: Mr. Thaler’s privacy interests in protecting his medical information from public view. “[A] plaintiff maintains significant privacy rights to [his] medical information and [] records contain[ing] treatment notes with more detailed health information ... is justified [for sealing].” *Jin v. Choi*, No. 120CV09129MKVSDA, 2021 WL 3159808, at *1 (S.D.N.Y. June 17, 2021) (internal quotation and citation omitted); see also *Valentini v. Grp. Health Inc.*, No. 20-CV-9526 (JPC), 2020 WL 7646892 (S.D.N.Y. Dec. 23, 2020) (granting motion to seal plaintiff’s health records). Since the report contains “treatment notes with more detailed health information” pertaining to Mr. Thaler’s physical and mental health, sealing of this document is warranted.

Furthermore, “[i]n determining the weight to be accorded to an assertion of a right of privacy, courts should first consider the degree to which the subject matter is traditionally considered private rather than public.... [I]llnesses ... will weigh more heavily against access[.]” *United States v. Amodio*, 71 F.3d 1044, 1051 (2d Cir. 1995). The report not only includes a psychiatrist’s medical assessment of Mr. Thaler, but also his medical history. Accordingly, Mr. Thaler’s privacy rights should weigh heavily in favor of shielding the report from public access.

Exhibits Excluded from Sealing

As to the remaining sixteen (16) exhibits listed below that were filed under seal, Plaintiffs do not seek to maintain them sealed. Upon Your Honor’s disposition of this Motion, Plaintiffs will replace the sealed filings of these exhibits with corresponding unsealed versions as required by Paragraph 17 of the Protective Order.

1. **Exhibit 52:** Shatsky Inheritance Order
2. **Exhibit 53:** U.S. Passports for Tzipora Shatsky and David Shatsky.¹
3. **Exhibit 54:** U.S. Passport for Aron Trattner.
4. **Exhibit 55:** U.S. Passport for Chana Freedman.
5. **Exhibit 56:** U.S. Passport for Hillel Trattner.
6. **Exhibit 57:** U.S. Passport for Miriam Shatsky.
7. **Exhibit 58:** U.S. Passport for Sara Shatsky.
8. **Exhibit 59:** U.S. Passport for Shelley Trattner.
9. **Exhibit 60:** U.S. Passport for Steven Braun.

¹ Please note that with the exception of Exhibit 55, all other exhibits consisting of copies of passports (Exhibits 53-54, and 56-67) contain manual redactions of passport numbers that were included in the original copies of such exhibits (and therefore cannot be removed). All exhibits that are copies of passports (Exhibits 53-67) contain redactions pertaining to the individuals’ dates of birth, as required by Fed. R. Civ. P. 5.2. Please further note that the “Confidential” and “Highly Confidential” designations affixed to Exhibits 53-67 do not represent Plaintiffs’ designations in this action, as they derive from cases unrelated to the present case.



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10. **Exhibit 61:** U.S. Passport for Yoseph Shatsky.
11. **Exhibit 62:** U.S. Passports for Isaac Thaler and Leor Thaler.
12. **Exhibit 63:** U.S. Passports for Jo Anne Shatsky and Shabtai Shatsky.
13. **Exhibit 64:** U.S. Passport for Miriam Friedman.
14. **Exhibit 65:** U.S. Passports for Yehiel Friedman and Bella Friedman.
15. **Exhibit 66:** U.S. Passports for Zvi Friedman and Ilan Friedman.
16. **Exhibit 67:** U.S. Passports for Zvi Thaler, Leor Thaler, and Rachel Thaler.

Thank you for your consideration of this Motion.

Respectfully submitted,

/s/ Abbe David Lowell
Abbe David Lowell

cc: All Counsel of Record (via ECF)